

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 13, 2005

AMENDED IN SENATE APRIL 4, 2005

**SENATE BILL**

**No. 1070**

**Introduced by Senator Kehoe  
(Coauthor: Senator Alquist)**

February 22, 2005

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An act to amend Sections 13167 and 13225 of, and to repeal and add Section 13181 to, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1070, as amended, Kehoe. Water quality information.

(1) Existing law, the Porter-Cologne Water Quality Control Act, requires the State Water Resources Control Board, in conjunction with the California regional water quality control boards, to implement a public information program on matters involving water quality and to maintain an information file on water quality research and other pertinent matters.

This bill would require the state board to place on its Web site a public information file on water quality research, standards, regulation, enforcement, and other pertinent matters, as prescribed.

(2) The act requires the state board, to the extent that funds are available, to prepare and complete, on or before January 1, 2000, an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters.

This bill would repeal that provision and would require the California Environmental Protection Agency and the Resources

Agency, on or before December 1, 2006, to enter into a memorandum of understanding for the purposes of establishing the California Water Quality Monitoring Council, which the state board would be required to administer. The bill would require the memorandum of understanding to describe the means by which the monitoring council, to the extent funding is available, shall (a) work to ~~(a) reduce redundancies, inefficiencies, and inadequacies in existing data collection~~ *water quality monitoring* programs and (b) ensure that ~~sufficient information is collected to track improvements in water quality and to evaluate the effectiveness of programs administered by the state board or the regional boards and other water quality improvement projects in financed by the state or federal government~~ *provide specific information necessary to track project effectiveness with regard to achieving clean water and healthy ecosystems*. The bill would require the monitoring council to undertake various actions relating to *water quality* data collection. The bill, to the extent funding is available, would require the Secretary of the California Environmental Protection Agency, ~~beginning~~ *commencing* December 1, 2008, to conduct a biennial audit of the effectiveness of a ~~specified comprehensive monitoring and assessment network developed and implemented by the monitoring council~~ *program strategy, which the state board would be required to develop and implement to the extent funding is available for that purpose*.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Legislative Analyst's Office has concluded that
- 4 ambient water quality monitoring is the foundation for much of
- 5 the work of the State Water Resources Control Board, including
- 6 basin planning, standards setting, and permitting.
- 7 (b) The Government Accounting Office has determined that
- 8 the United States Environmental Protection Agency (EPA) and
- 9 the states need comprehensive water quality monitoring and
- 10 assessment information on environmental changes and conditions
- 11 over time and that, in the absence of this information, it is
- 12 difficult for the EPA and the states to establish priorities,

1 evaluate the success of programs and activities, and report on  
2 accomplishments.

3 (c) The National Research Council has similarly  
4 recommended the development of a uniform, consistent approach  
5 to ambient water quality monitoring and data collection,  
6 increased resources for water monitoring, and improved  
7 coordination of monitoring.

8 (d) According to California's 2002 biennial monitoring report  
9 to the EPA, the state can only report on the health of 22 percent  
10 of its coastal shoreline, 34 percent of its lakes and reservoirs, and  
11 15 percent of its rivers and streams *due to a lack of monitoring*  
12 *data*. There is no single place where the public can go to get a  
13 specific look at the health of water bodies in its own backyard, or  
14 even to get an overall picture of the health of the state's waters.

15 (e) State *water* board funding for ambient surface water  
16 monitoring ~~has decreased significantly over the years. The efforts~~  
17 ~~that are underway could be enhanced significantly if the state~~  
18 ~~effectively coordinates the many separate monitoring activities~~  
19 ~~that are going on at the local, state, and federal levels, but~~  
20 ~~different protocols and agency interests have precluded~~  
21 ~~coordination of the data.~~ *has fluctuated significantly over the*  
22 *years, and is inadequate to ensure the assessment of all waters.*  
23 *The monitoring efforts that are underway could be enhanced*  
24 *significantly with increased coordination of the many separate*  
25 *monitoring activities that are going on at the local, state, and*  
26 *federal levels. Historically, the use of different protocols and*  
27 *data management systems have typically precluded the full and*  
28 *effective use of available water quality monitoring data.*

29 (f) The development of new programs to control agricultural  
30 and timber pollution, and the implementation of hundreds of new  
31 projects financed by bond funds to improve water quality, may  
32 produce water quality improvements ~~that will essentially go~~  
33 ~~unmeasured without significant improvements in the~~  
34 ~~coordination, integration, and funding of water quality~~  
35 ~~monitoring should be documented.~~ The State of California cannot  
36 afford to waste the opportunities provided by these and other  
37 water quality improvement programs.

38 (g) Numerous water monitoring efforts are conducted by local,  
39 state, and federal agencies, regulated entities, and citizen  
40 monitoring groups. Many of these efforts are uncoordinated, and

1 as a result funds and information are not being used as effectively  
2 as they could be. In addition, redundant monitoring activities can  
3 occur because of a lack of basic information relative to the scope  
4 of monitoring activities throughout the state. For example, there  
5 are 100 water quality monitoring efforts underway in the central  
6 valley alone, and coordination is minimal.

7 (h) The state's Nonpoint Source Pollution Monitoring Council  
8 should be expanded to provide a complete, coordinated picture of  
9 current and changing water health throughout the state, to inform  
10 the public with regard to safe use of its waters, and to report to  
11 the public on the success of efforts to protect and restore those  
12 waters.

13 ~~(i) Federal funding and funding from other sources is available~~  
14 ~~to make sure that the State of California improves its monitoring~~  
15 ~~efforts so that Californians have a better understanding of the~~  
16 ~~health of the state's waters. Better coordination of ongoing~~  
17 ~~monitoring efforts, and more targeted identification of specific~~  
18 ~~monitoring needs, would place California in a better position to~~  
19 ~~obtain additional needed monitoring funding, particularly~~  
20 ~~federal funding.~~ Additional support can be found through the  
21 savings provided by increased coordination and integration of  
22 existing monitoring efforts.

23 (j) Californians should be able to readily access basic  
24 information that already exists about the state's waters and how  
25 those waters are protected and restored. By their recent approval  
26 of a constitutional amendment (Proposition 59), California voters  
27 have indicated their strong support for open and transparent  
28 government. The "government" of state waters should be carried  
29 out in a similarly open manner. At a minimum, all information  
30 that is currently available to agencies should be made readily  
31 available to the public via the Internet.

32 SEC. 2. Section 13167 of the Water Code is amended to read:

33 13167. (a) The state board shall implement a public  
34 information program on matters involving water quality, and  
35 shall maintain and place on its Web site, in a format accessible to  
36 the general public, an information file on water quality research,  
37 standards, regulation, enforcement, and other pertinent matters.

38 (b) The information file described in subdivision (a) shall  
39 include, but need not be limited to, information relating to  
40 permits, waste discharge requirements, waivers, reports, lists,

charts, standards, objectives, agreements, enforcement actions, and other information and documents prepared pursuant to Sections 13164, 13170.1, 13181, 13240, 13241, 13243, 13260, 13263, 13266, 13267, 13269, 13320, 13323, 13376, 13377, and 13399.27. To the maximum extent practicable given available funding, the state board, in consultation with the regional boards, shall ensure that the information is available in single locations, rather than separately by region, and that the information is presented in a manner easily understandable by the general public.

SEC. 3. Section 13181 of the Water Code is repealed.

SEC. 4. Section 13181 is added to the Water Code, to read:

13181. (a) On or before December 1, 2006, the California Environmental Protection Agency and the Resources Agency shall enter into a memorandum of understanding for the purposes of establishing the California Water Quality Monitoring Council, which shall be administered by the state board. The California Water Quality Monitoring Council shall include, *but need not be limited to*, the members of the existing California Nonpoint Source Tracking and Monitoring Council. ~~To the extent funding is available, the California Environmental Protection Agency and the Resources Agency shall jointly review the composition of the existing California Nonpoint Source Tracking and Monitoring Council and identify other entities with responsibilities for water quality monitoring that should be part of the California Water Quality Monitoring Council. The purpose of the California Water Quality Monitoring Council shall be to build upon the work of the existing Nonpoint Source Tracking and Monitoring Council, to coordinate the water quality monitoring efforts of federal, state and local government, institutions of higher education, representatives of the regulated community, citizen monitoring groups, and other interested parties, and to develop a cost-effective coordinated, integrated, comprehensive network for collecting and disseminating water quality information and assessments. Among other things, the memorandum of understanding shall describe the means by which the California Water Quality Monitoring Council, to the extent that funding is available, shall do both of the following:~~

(1) ~~Work to reduce redundancies, inefficiencies, and inadequacies in existing data collection programs in order to~~

~~1 improve the effective delivery of sound, comprehensive~~  
~~2 information to the public and decisionmakers.~~

~~3 (2) Ensure that sufficient information is collected to track~~  
~~4 improvements in water quality and evaluate the overall~~  
~~5 effectiveness of programs administered by the state board or the~~  
~~6 regional boards, and water quality improvement projects~~  
~~7 financed by the state or the federal government, with regard to~~  
~~8 achieving clean water and healthy ecosystems.~~

~~9 (b) The California Water Quality Monitoring Council shall~~  
~~10 report annually to the California Environmental Protection~~  
~~11 Agency and the Resources Agency as to its recommendations for~~  
~~12 maximizing the efficiency and effectiveness of water quality data~~  
~~13 collection and dissemination, to ensure that sufficient data are~~  
~~14 maintained and available for use and Monitoring Council, as well~~  
~~15 as representatives of the public, the regulated community, and~~  
~~16 citizen monitoring groups. The purpose of the California Water~~  
~~17 Quality Monitoring Council shall be to build upon the work of~~  
~~18 the existing California Nonpoint Source Tracking and~~  
~~19 Monitoring Council and to identify specific recommended actions~~  
~~20 and funding needs necessary to coordinate and enhance the~~  
~~21 water quality monitoring efforts of federal, state, regional, and~~  
~~22 local government, institutions of higher education,~~  
~~23 representatives of the regulated community, citizen monitoring~~  
~~24 groups, and other interested parties. The recommendations shall~~  
~~25 be prepared for the ultimate development of a cost-effective,~~  
~~26 coordinated, integrated, and comprehensive statewide network~~  
~~27 for collecting and disseminating water quality information and~~  
~~28 ongoing assessments of the health of the state's waters and the~~  
~~29 effectiveness of programs to protect and improve the quality of~~  
~~30 those waters. Among other things, the memorandum of~~  
~~31 understanding shall describe the means by which the California~~  
~~32 Water Quality Monitoring Council, to the extent that funding is~~  
~~33 available, shall do both of the following:~~

~~34 (1) Work to reduce redundancies, inefficiencies, and~~  
~~35 inadequacies in existing water quality monitoring programs in~~  
~~36 order to improve the effective delivery of sound, comprehensive~~  
~~37 water quality information to the public and decisionmakers.~~

~~38 (2) Ensure that water quality improvement projects financed~~  
~~39 by the state or the federal government provide specific~~

1 *information necessary to track project effectiveness with regard*  
2 *to achieving clean water and healthy ecosystems.*

3 *(b) The California Water Quality Monitoring Council shall*  
4 *report, on or before December 1, 2007, to the California*  
5 *Environmental Protection Agency and the Resources Agency*  
6 *with regard to its recommendations for maximizing the efficiency*  
7 *and effectiveness of existing water quality data collection and*  
8 *dissemination, and for ensuring that collected data are*  
9 *maintained and available for use by decisionmakers and the*  
10 *public. The monitoring council shall consult with the United*  
11 *States Environmental Protection Agency in preparing these*  
12 *recommendations. The monitoring council's recommendations,*  
13 *and any responses submitted by the California Environmental*  
14 *Protection Agency or the Resources Agency to those*  
15 *recommendations, shall be made available to decisionmakers and*  
16 *the public via by means of the Internet.*

17 *(c) The California Water Quality Monitoring Council shall*  
18 *undertake and complete, on or before ~~March 1, 2007~~ December*  
19 *1, 2006, a survey of its members to develop an inventory of*  
20 *existing water quality monitoring and data collection efforts*  
21 *statewide and shall make that information available to the public.*

22 *(d) ~~All entities of the state~~ state agencies, including*  
23 *institutions of higher education to the extent permitted by law,*  
24 *that collect water quality data or information shall cooperate with*  
25 *the state board in the development and implementation of the*  
26 *memorandum of understanding to develop the water quality data*  
27 *network described in subdivision (a).*

28 *(e) ~~To the extent funding is available, the network developed~~*  
29 *~~and implemented by the monitoring council pursuant to~~*  
30 *~~subdivision (a) shall include, but not be limited to, all of the~~*  
31 *~~following components, in accordance with the requirements of~~*  
32 *~~the Clean Water Act (33 U.S.C. Sec. 1251 et seq.): California~~*  
33 *~~Environmental Protection Agency and the Resources Agency in~~*  
34 *~~achieving the goals of the monitoring council as described in this~~*  
35 *~~section.~~*

36 *(e) To the extent funding is available, and in accordance with*  
37 *the requirements of the Clean Water Act (33 U.S.C. Sec. 1251 et*  
38 *seq.) and implementing guidance, the state board shall develop,*  
39 *in coordination with the monitoring council, all of the following:*

(1) A comprehensive monitoring program strategy that utilizes and expands upon the state's existing *statewide, regional, and other* monitoring capabilities and describes how the state will develop an integrated monitoring program that will serve all of the state's water quality monitoring needs and address all of the state's waters over time. ~~The strategy, to the extent funding is available, shall be fully implemented within 10 years of the date of adoption.~~ The strategy shall include a timeline not to exceed 10 years to complete implementation. The strategy shall be comprehensive in scope and identify *specific* technical, integration, and resource needs ~~and, and shall~~ recommend solutions for those needs so that the strategy may be implemented within the 10-year timeframe.

(2) Agreement on, and implementation of, comprehensive monitoring of statewide water quality protection indicators that provide a basic minimum understanding of the health of the state's waters. Indicators already developed pursuant to environmental protection indicators for statewide initiatives shall be given high priority as core indicators for purposes of the network described in subdivision (a).

(3) Quality management plans and quality assurance plans that ensure the validity and utility of the data collected.

(4) Methodology for compiling, analyzing, and integrating readily available information, to the maximum extent feasible, including, but not limited to, data acquired from discharge reports, volunteer monitoring groups, ~~and~~ local, state, and federal agencies, *and recipients of state-funded or federally-funded water quality improvement or restoration projects.*

(5) An accessible and user-friendly electronic data system with timely data entry and ready public access via the Internet. To the maximum extent possible, the geographic location of the areas monitored shall be included in the data system.

(6) Production of timely and complete water quality reports and lists that are required under Sections 303(d), 305(b), 314, and 319 of the ~~federal Water Pollution Control~~ *Clean Water Act* and Section 406 of the Beaches Environmental Assessment and Coastal Health Act of 2000, that include all available information from discharge reports, volunteer monitoring groups, and local, state, and federal agencies.



(7) An update of the state board's surface water ambient monitoring program needs assessment in light of the benefits of increased coordination and integration of information from other agencies and information sources. This update shall include identification of current and future resource needs required to fully implement the coordinated, comprehensive monitoring network, including, but not limited to, funding, staff, training, laboratory and other resources, and projected improvements in the network.

*(f) The state board shall identify the full costs of implementation of the comprehensive monitoring program strategy developed pursuant to subdivision (e), and shall identify proposed sources of funding for the implementation of the strategy, including federal funds that may be expended for this purpose. Fees collected pursuant to paragraph (1) of subdivision (d) of Section 13260 may be used as a funding source for implementation of the strategy to the extent that the funding is consistent with subparagraph (B) of paragraph (1) of subdivision (d) of Section 13260.*

~~(f)~~

(g) Data, summary information, and reports prepared pursuant to this section shall be made available to appropriate public agencies and the public by means of the Internet.

~~(g)~~

*(h) (1) To the extent funding is available, commencing December 1, 2008, the Secretary of the California Environmental Protection Agency shall conduct a biennial audit of the effectiveness of the monitoring and assessment network and the monitoring council established pursuant to this section. The audit shall include strategy developed and implemented pursuant to subdivision (e). The audit shall include, but need not be limited to, an assessment of the effectiveness of the monitoring and assessment program and the monitoring council in tracking improvements in water quality, and in evaluating the overall effectiveness of programs administered by the state board or a regional board and of state and federally funded water quality improvement projects.*

(2) The Secretary of the California Environmental Protection Agency shall consult with the Secretary of the Resources Agency

1 in preparing the audit, consistent with the memorandum of  
2 understanding entered into pursuant to subdivision (a).

3 ~~(h)~~

4 (i) The state board shall prioritize the use of federal funding  
5 that may be applied to monitoring, including, but not limited to,  
6 funding under Section 106 of the Federal Water Pollution  
7 Control Act, for the purpose of implementing this section.

8 ~~(i)~~

9 (j) The state board shall not use more than 5 percent of the  
10 funds made available to implement this section for the  
11 administrative costs of any contracts entered into for the purpose  
12 of implementing this section.

13 SEC. 5. Section 13225 of the Water Code is amended to read:

14 13225. Each regional board, with respect to its region, shall:

15 (a) Obtain coordinated action in water quality control,  
16 including the prevention and abatement of water pollution and  
17 nuisance.

18 (b) Encourage and assist in self-policing waste disposal  
19 programs, and upon application of any person, advise the  
20 applicant of the condition to be maintained in any disposal area  
21 or receiving waters into which the waste is being discharged.

22 (c) Require as necessary any state or local agency to  
23 investigate and report on any technical factors involved in water  
24 quality control or to obtain and submit analyses of water;  
25 provided that the burden, including costs, of such reports shall  
26 bear a reasonable relationship to the need for the report and the  
27 benefits to be obtained therefrom.

28 (d) Request enforcement by appropriate federal, state and local  
29 agencies of their respective water quality control laws.

30 (e) Recommend to the state board projects which the regional  
31 board considers eligible for any financial assistance which may  
32 be available through the state board.

33 (f) Report to the state board and appropriate local health  
34 officer any case of suspected contamination in its region.

35 (g) File with the state board, at its request, copies of the record  
36 of any official action.

37 (h) Take into consideration the effect of its actions pursuant to  
38 this chapter on the California Water Plan adopted or revised  
39 pursuant to Division 6 (commencing with Section 10000) of this  
40 code and on any other general or coordinated governmental plan

- 1 looking toward the development, utilization or conservation of
- 2 the water resources of the state.
- 3 (i) Encourage regional planning and action for water quality
- 4 control.
- 5 (j) Comply with the public information requirements set forth
- 6 in Section 13167.

O